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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,612	03/12/2001	M. Ibrahim Sezan	KLR 7146.115	3154

7590   01/25/2008

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ART UNIT	PAPER NUMBER
2179	

MAIL DATE	DELIVERY MODE
01/25/2008	PAPER

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/804,612
Filing Date: March 12, 2001
Appellant(s): SEZAN ET AL.

Kurt Rohlfs
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/11/07 appealing from the Office action mailed

01/03/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The statement of the status of claims contained in the brief is correct.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

U.S. Patent No. 6,405,371 B1	Oosterhout et al.	06-2002
U.S. Patent No. 6,137,486	Yoshida et al.	10-2000
U.S. Patent No. 6,286,141	Brown et al.	09-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1.   **Claims 2-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over**

Oosterhout et al. (U.S. Patent No. 6,405,371 B1) in view of Yoshida et al. (U.S. Patent No.

6,137,486).

As to claim 21, Oosterhout teaches a method of using a system with at least one of audio,

image, and a video comprising a plurality of frames comprising the steps of:

(a) providing an <u>electronically stored</u> (Oosterhout clearly teaches the <u>microprocessor</u> 25

receives the EPG (Electronic Program Guide) data from the transmitter and stores this

information/description scheme in a <u>memory</u>, e.g., col. 3 lines 20-27) user description scheme

containing user preference data for a user (if the "theme" button is selected, the program allows

the user to input the type of television program he is currently interested in. In this example, it

will be assumed that the viewer is interested in movies. The sub-program 309 displays a list of

available program types such as "Entertainment", "News", "Sports", "Movie", etc, e.g., col. 1

lines 35-63, col. 4 lines 4-14, and figs. 4-7);

(b) providing at least one of the following:

(i) a program description scheme containing information related to at least one of

information regarding interrelationships between a plurality of said frames (e.g., col. 1

lines 35-63, col. 4 lines 4-14, and figs. 4-7), characteristics of the content of a plurality of

said frames, characteristics of the content of said audio, characteristics of the content of

said image, characteristics of the content of said video;

(ii) a system description scheme containing information regarding at least one of

available videos, available categories, available channels, available users, available

images, capabilities of a device for providing said at least one of said audio, said image,

and said video to a-user, relationship between at least two of said video, said program

description scheme, and said user description scheme, relationship between at least two

of said audio, said program description scheme, and said user description scheme,

relationship between at least two of said image, said program description scheme, and

said user description scheme; and

(c) an electronic device selecting without user input (Oosterhout teaches that the

microprocessor 25 will search in the EPG database and for each TV channel, the "What's On

Next" program that will be broadcasting, e.g., col. 4 lines 40-49; it clearly means that the

electronic device using microprocessor 25 automatically searches for upcoming programs

without actual user input at that time.) at least one of a video, an image, and audio based upon

said at least one of said program description scheme, said user description scheme, and said

system description scheme (e.g., col. 1 lines 35-63, col. 4 lines 4-14, and figs. 4-7);

although, Oosterhout teaches that the microprocessor of the receiver can recognize the

predetermined user command (e.g., col. 3 lines 18-37), but Oosterhout does not clearly show that

the system provides data for a predetermined user and at least on descriptor for identification of

said predetermined user. Yoshida clearly teaches the "Program Lock" contains password(s) in

order to prevent a child from viewing inappropriate video scenes and channels (Yoshida, e.g.,

col. 9 lines 6-30), and the password(s) have to be registered/listed as table at the attribute register

9 (Yoshida, e.g., col. 10 lines 15-18, and figs. 1-2 & 4) to be able to compare the preset

password(s) and the entering password(s) from the child's parents or guardians; and Yoshida

inherently teaches that after user enter his/her password(s), he/she can view the user preference

data indicative of expected content preferences for the identified of the predetermined user

because the display will view a list of movies or particular channels, which were preset/predetermined by the user. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the password setup of Yoshida in the television program of Oosterhout to prevent children from accessing inappropriate scenes or channels (Yoshida, col. 9 lines 9-30).

As to dependent claim 2, Oosterhout teaches the method wherein said program description scheme contains information related to said interrelationships of said plurality of said frames (e.g., col. 4 lines 4-30, and figs. 4-7).

As to dependent claim 3, Oosterhout teaches the method wherein said interrelationships include the identification of key frames is video frames (figs. 4-7).

As to dependent claim 4, Oosterhout teaches the method wherein said interrelationships include the identification of a plurality of said frames representative of the highlights of at least a portion of said video (An asterix or other special·symbol may be displayed near the sub-images, the relevant channel names may be highlighted, the border lines of the sub-images may change color, etc, e.g., col. 1 lines 57-63, and figs. 4-7).

As to dependent claim 5, Oosterhout teaches the method wherein said interrelationships include the identification of a set of frames, each of which is representative of a different portion of said video (figs. 4-7).

As to claim 6, Oosterhout teaches the method wherein said different portion of said video is non-overlapping (figs. 4-7).

As to dependent claim 7, Oosterhout teaches the method wherein said interrelationships include the identification of a plurality of sequential frames of said video that represent at least one of a shot and a scene (figs. 4-7).

As to dependent claim 8, Oosterhout teaches the method wherein said identification further includes a plurality of said at least one of said shot and said scene (e.g., col. 4 lines 4-30, and figs. 4-7).

As to dependent claim 9, Oosterhout teaches the method wherein said interrelationships includes a plurality of highlights of the same portion of said video having different durations (the similar programs play in different channels showing different length and time, e.g., col. 37-65, and fig. 9).

As to dependent claim 10, Oosterhout teaches the method wherein said interrelationships includes a plurality of key frames of the same portion of said video having a different number of frames of said portion of said video (figs. 4-9).

As to dependent claim 11, Oosterhout teaches the method wherein said program description scheme contains characteristics of said content of said plurality of said frames (theme, col. 1 lines 35-63, col. 4 lines 4-14, and figs. 4-7).

As to dependent claim 13, Oosterhout teaches the method wherein said characteristics include at least one of a color profile of at least a portion of said video, a texture profile of at least a portion of said video, a shape profile of at least a portion of said video, and a motion profile of at least a portion of said video (change colors, e.g., col. 4 lines 15-36, and figs. 6-8).

As to claim 14, Oosterhout teaches the method wherein the program description scheme identifies a portion of each of a plurality of said frames of said video that is to be presented to a user at a size larger than it would have been presented within said video (fig. 9).

As to dependent claim 15, Oosterhout teaches the method wherein said program description scheme identifies a second video segment separate from said video that includes a close up view of a portion of said video (fig. 9).

As to dependent claim 16, Oosterhout teaches the method wherein said program description scheme identifies a second audio track separate from the normal audio track of said video (Oosterhout inherently teaches this feature because fig. 9 shows two different screens of the same video (45a and the larger view); therefore, there are two separate audio tracks (a track for each video)).

As to dependent claim 17, Oosterhout teaches the method wherein said program description scheme includes textual annotation related to said video (CNN, BBC, CH4, etc.).

As to dependent claim 18, Oosterhout teaches the method wherein said textual annotation is related to an object within said video (scheduled broadcast dates and times, titles, types (for example, entertainment, news, sports, movies, etc.), parental ratings, etc., e.g., col. 2 lines 40-45).

As to dependent claims 12 and 19, although, the modified Oosterhout teaches the method wherein said characteristics of the frames/video/genre (e.g., col. 4 lines 4-30, and figs. 4-7), Oosterhout does not clearly show the characteristics relating to an actor within the video; however, it would have been well known and obvious to implement the characteristics of the

video as mentioned above to tell information about a person or character in that video for

viewer's references which help the viewer quickly recognizing the role of that character.

As to claim 20, although, the modified Oosterhout does not clearly teaches the method of

claim 21 wherein said program description scheme identifies Internet based information related

to said video; however, it would have been well known and obvious to implement the scheme of

the video as mentioned above to connect the channels with their Web Sites such as CNN, BBC,

SAT Web Links, etc. for convenience purposes.

As to dependent claim 22, Oosterhout in view of Yoshida teaches the method wherein

said user description scheme is portable between systems containing said program or said system

description scheme (Oosterhout inherently shows this feature because the control program can be

stored in and executed by microprocessor 25 (e.g., col. 3 lines 18-31); therefore, the control

program of Oosterhout can be loaded into different computers or processors).

As to dependent claim 23, Oosterhout teaches the method wherein the user description

scheme is contained in a portable data storage medium (program is stored in and executed by the

microprocessor, e.g., col. 3 lines 18-25).

2.   **Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oosterhout**

et al. (U.S. Patent No. 6,405,371 B1) in view of Yoshida et al. (U.S. Patent No. 6,137,486),

and further in view of Brown et al. (U.S. Patent No. 6,286,141).

As to claim 24, the modified invention of Oosterhout in view of Yoshida does not teach

the scheme contains user preference data based upon a user's viewing history or listening

history. Brown clearly teaches personal editing apparatus 1102 compiles a history of past

viewing habits based solely on channel number selected and the time of day and day of week the

channel number was selected (e.g., col. 11 lines 20-42). It would have been obvious to a person

of ordinary skill in the art at the time of the invention to use the history record of Brown in the

modified system of Oosterhout to be able to keep the viewing record of each different viewer for

providing appropriate information in the future (Brown, Summary).

(10) Response to Argument

The Oosterhout Reference teaches:

A navigating-television-programs system provides a method of navigating through

television programs which further enhances the convenience of using electronic program guides.

The system displays a plurality of television programs as a mosaic of sub –images on a display

screen, receiving one or more descriptors defining respective properties of each television

program, receiving a user command identifying a selected descriptor value, and perceptibly

marking the sub-images corresponding to television programs which have the selected descriptor

value. A mosaic screen is an attractive and user-friendly interface for selecting a television

program from a plurality of available programs. It is achieved by the system that such a mosaic

overview remains displayed when the viewer wants to know which television channel broadcasts

a desired type of program, e.g. a movie. Not only do the non-marked sub-images remain on

screen, they also stay at the same position in the mosaic independent of the number of television

channels that currently broadcast a movie. Once the user has associated a channel with its

position in the mosaic, he/she will appreciate that said association is not changed by the theme

search. Moreover, a steady picture is obtained. The marking of sub-images may take many

forms. An asterix or other special symbol may be displayed near the sub-images, the relevant

channel names may be highlighted, the border lines of the sub-images may change color, etc. It

is also possible to modify the appearance of the sub-images representing programs that are not

desired, i.e. the sub-images corresponding to television programs which do not have the selected

descriptor value. In advantageous embodiments of the Oosterhout's invention, the brightness,

contrast, size, or refresh rate (up to freezing into a still picture) of said sub-images is reduced.

The mosaic screen may be composed locally by the receiver from the various receivable

television channels. It may also be transmitted by a transmitter along with one or more television

programs. Oosterhout teaches the microprocessor 25 receives the EPG (Electronic Program

Guide) data from the transmitter and stores this information/description scheme in a memory,

e.g., col. 3 lines 20-27. If the "theme" button is selected, the program allows the user to input the

type of television program he is currently interested in. In this example, it will be assumed that

the viewer is interested in movies. The sub-program 309 displays a list of available program

types such as "Entertainment", "News", "Sports", "Movie", etc, e.g., col. 1 lines 35-63, col. 4

lines 4-14, and figs. 4-7. Oosterhout also teaches that the microprocessor 25 will search in the

EPG database and for each TV channel, the "What's On Next" program that will be

broadcasting, e.g., col. 4 lines 40-49; it clearly means that the electronic device using

microprocessor 25 automatically searches for upcoming programs without actual user input at

that time. There is at least one of a video, an image, and audio based upon one of the program

description scheme, the user description scheme, and the system description scheme (e.g., col. 1

lines 35-63, col. 4 lines 4-14, and figs. 4-7).

Yoshida Reference teaches:

Yoshida's image control device for restricting display of video data viewed on a

television in accordance with a restrict level of the video data by using the "Program Lock",

which contains/requires password(s) in order to prevent a child from viewing inappropriate video

scenes and channels (Yoshida, e.g., col. 9 lines 6-30), and the password(s) have to be

registered/listed as table at the attribute register 9 (Yoshida, e.g., col. 10 lines 15-18, and figs. 1-

2 & 4) to be able to compare the preset password(s) and the entering password(s) from the

child's parents or guardians. Yoshida inherently teaches that after user enter his/her password(s),

he/she can view the user preference data indicative of expected content preferences for the

identified of the predetermined user because the display will view a list of movies or particular

channels, which were preset/predetermined by the user.

Browne Reference teaches:

A personal editing apparatus compiles a history of past viewing habits based solely on

television channel number(s) selected and the time of day and day of week the channel number

was selected. The history viewed programming for a plurality of viewers or particular viewer can

be constructed by recording the time and date of week associated with the selected channels, and

also provides a record of the duration that each channel is viewed (Browne, e.g., col. 11 lines 20-

42).

Appellant's Arguments:

a.   *Appellants allege that Oosterhout does not teach the electronic device select*

"without user input at least one of a video, an image, and audio based upon an

interaction of the user description scheme with at least one of the program description

scheme."

Oosterhout also teaches that the microprocessor 25 will search in the EPG database and for each TV channel, the "What's On Next" program that will be broadcasting, e.g., col. 4 lines 40-49; it clearly means that the electronic device using microprocessor 25 <u>automatically searches</u> for upcoming programs without actual user input at that time. There is at least one of a video, an image, and audio based upon one of the program description scheme, the user description scheme, and the system description scheme (e.g., col. 1 lines 35-63, col. 4 lines 4-14, and figs. 4-7). "What's On Next" overview, the term "next" may refer to a television program or a specified point of time. In the first option, the microprocessor searches in the EPG database and for each television channel, the <u>next program that it will be broadcasting</u>. As there are no seal-time sub-images available for these programs, all of them are presented in textual form while maintaining the mosaic structure the user is so familiar with. Advantageously, the "next" overview is combined with the marking feature described above. In the second option, the microprocessor searches in the EPG database the program which will be broadcast at the specified point of time.

b.   *Appellants allege that there is no motivation or suggestion to combine Oosterhout and Yoshida, and later in view of Browne.*

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*,

958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Oosterhout and

Yoshida are in the same field of the invention because they deal with television/video

programming. Although, Oosterhout teaches that the microprocessor of the receiver can

recognize the predetermined user command (e.g., col. 3 lines 18-37), but Oosterhout does

not clearly show that the system provides data for a predetermined user and at least on

descriptor for identification of said predetermined user. Yoshida's image control device

for restricting display of video data viewed on a television in accordance with a restrict

level of the video data by using the "Program Lock", which contains/requires password(s)

in order to prevent a child from viewing inappropriate video scenes and channels

(Yoshida, e.g., col. 9 lines 6-30), and the password(s) have to be registered/listed as table

at the attribute register 9 (Yoshida, e.g., col. 10 lines 15-18, and figs. 1-2 & 4) to be able

to compare the preset password(s) and the entering password(s) from the child's parents

or guardians. Yoshida inherently teaches that after user enter his/her password(s), he/she

can view the user preference data indicative of expected content preferences for the

identified of the predetermined user because the display will view a list of movies or

particular channels, which were preset/predetermined by the user. It would have been

obvious to a person of ordinary skill in the art at the time of the invention to use the

password setup of Yoshida in the television program of Oosterhout to prevent children

from accessing inappropriate scenes or channels (Yoshida, col. 9 lines 9-30).

Then, the modified invention of Oosterhout in view of Yoshida does not teach the scheme contains user preference data based upon a user's viewing history or listening history. Browne clearly teaches a personal <u>editing apparatus compiles a history of past viewing</u> habits based solely on television.channel number(s) selected and the time of day and day of week the channel number was selected. The history viewed programming for a plurality of viewers or particular viewer can be constructed by recording the time and date of week associated with the selected channels, and also provides a record of the duration that each channel is viewed (Browne, e.g., col. 11 lines 20-42). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the history record of Brown in the modified system of Oosterhout to be able to keep the viewing record of each different viewer for providing appropriate information in the future (Brown, Summary).

Moreover, in view of the guidance provided by the Supreme Court in *KSR* decision, the patent claim is prima facie obvious if "some motivation or suggestion to combine the prior art teachings" can be found in the prior art, the nature of the problem, or the knowledge of a person having ordinary skill in the art. See the recent Board decision *EX parte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007 (citing *KSR*, 82 USPQ2d at 1396) (available at <http://www.uspto.gov/web/offices/dcom/bpai/prec/fd071925.pdf>).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.
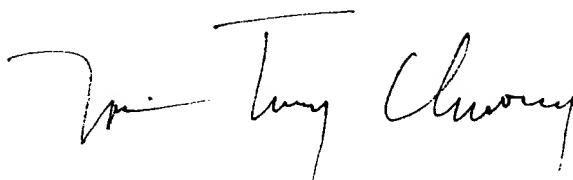
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Truc T. Chuong
Patent Examiner, AU 2179

January 18, 2008

Conferees:

/Lynne H Browne/
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**WEILUN LO
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